

REMARKS

Applicant respectfully requests reconsideration. Claims 1-4, 6 and 8-55 were previously pending in this application. Claims 13, 19-20, 22, 37 and 47-49 are currently withdrawn. By this amendment, claims 14-17 have been canceled without prejudice or disclaimer. Claims 1, 27, 29, 30, 32 and 55 have been amended. Support for the amendment of claim 1 can be found in the specification at least on page 3, lines 14-21 and in claims 14 and 15 as originally filed. Support for the amendment of claims 1 and 55 can be found in the specification at least on page 8, lines 16-26. Claim 27 has been amended for clarification purposes. Claims 29, 30 and 32 have been rewritten in independent format. New claims 56 and 57 have been added. Claims 56 and 57 cover the same scope as previously pending claims 25 and 27, respectively, but written in independent format.

As a result, claims 1-4, 6, 8-12, 18, 21, 23-36, 38-46 and 50-57 are pending for examination with claims 1, 29, 30, 32 and 55-57 being independent claims. No new matter has been added.

Rejections under 35 U.S.C. §101

Claims 1-4, 6, 8-12, 14-18, 21, 23-36, 38-46 and 50-55 are rejected under 35 U.S.C. §101 for alleged lack of utility. According to the Examiner, claims 1-4, 6, 8-12, 14-18, 21, 23-36, 38-46 and 50-55 do not result in a physical transformation, and do not result in the production of a tangible result in a form that is useful to the user of the process.

Applicant respectfully traverses. The instant claims comprise a step of physical transformation and therefore have utility (See MPEP §2106). The step “obtaining intensity profiles from individual labeled polymers contained in a sample” inherently comprises a physical transformation. Such physical transformation is supported in the specification, which states “Polymer analysis according to the invention encompasses detecting signals intrinsically present in a polymer or signals from an extrinsic probe that is bound to the polymer” (page 25, lines 9-11).

However, without conceding to the Examiner’s position and merely in the interest of expediting prosecution, Applicant has amended the independent claims to include the recitation “wherein individual intensity profiles are obtained by detecting signals from the individual labeled polymers”. Support for the limitation can be found in the specification at least on page 25, lines 9-

17. Thus, the claimed methods comprise a physical transformation and at least therefore satisfy the utility requirement under 35 U.S.C. §101.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §112

Claims 1 and 55 are rejected under 35 U.S.C. §112, second paragraph, a being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Examiner, claims 1 and 55 are unclear with respect to “the intensity profile” recited at line 11 in claim 1 and at line 10 in claim 55.

Without conceding to the Examiner’s position and merely in the interest of expediting prosecution, Applicant has amended claims 1 and 55 to recite “the individual intensity profile” in both line 11 of claim 1 and line 10 of claim 55. In addition, line 2 of both claims has been amended to recite “obtaining individual intensity profiles”, thereby clarifying the antecedent basis for the term “the individual intensity profile”. Support for the amendment can be found in the specification at least on page 8, line 16-26.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §103

Claims 1-4, 6, 8-12, 14, 16-18, 21, 23-24, 26, 28, 39, 44-46, and 50-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over Taylor et al. (US Patent Application No. 2003/0082538) in view of Chan (WO 98/35012). According to the Examiner it would have been obvious to combine the method of polymer analysis of Taylor et al. with the sequence specific probes of Chan to arrive at the claimed invention.

Without conceding to the Examiner’s position and merely in the interest of expediting prosecution, Applicant has amended claim 1 to introduce the limitation “wherein the alignment reference point is a center of molecule reference point”. Support for the amendment can be found in the written description at least on page 3, lines 14-21 and in claims 14 and 15 as originally filed. Applicant notes that claim 15 is not rejected under §103. In addition, Applicant has canceled claims 14-17.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No.: C0989.70045US01.

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Respectfully submitted,

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